



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Chris K. Gober
Gober Hilgers PLLC
1005 Congress Avenue, Suite 350
Austin, TX 78701

JUL -5 2016

RE: MUR 6904

Dear Mr. Gober:

On November 13, 2014, the Federal Election Commission ("Commission") notified your clients, Cat Ping for Congress and Catherine L. Ping in her official capacity as treasurer (collectively, "Respondents"), of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. On June 30, 2016, based upon the information contained in the complaint, and information provided by the Committee, the Commission decided to exercise its prosecutorial discretion to dismiss the complaint and close its file in this matter. Accordingly, the Commission closed its file in this matter on June 30, 2016.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). A copy of the dispositive General Counsel's Report is enclosed for your information.

If you have any questions, please contact Ruth Heilizer, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Daniel A. Petalas
Acting General Counsel

A handwritten signature in black ink, appearing to read "Jeff S. Jordan", is written over the typed name and title of the Assistant General Counsel.

BY: Jeff S. Jordan
Assistant General Counsel
Complaints Examination and
Legal Administration

Enclosure
General Counsel's Report

100547M090107

SENSITIVE

2016 JUN 16 AM 10:2 BEFORE THE FEDERAL ELECTION COMMISSION

**ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT**

MUR: 6904

Complaint Receipt Date: November 7, 2014

Response Date: December 17, 2014 (Committee)

Respondents: Cat Ping for Congress¹
Catherine L. Ping as
treasurer (collectively the
"Committee"), and
Concerned 7th District
Neighbors ("CDN")²

EPS Rating:

Alleged Statutory/	52 U.S.C. § 30102(i)
Regulatory Violations	52 U.S.C. § 30120(a)
	11 C.F.R. § 109.10
	11 C.F.R. § 110.11(c)

The Complaint alleges that the Committee's website violated the Federal Election Campaign Act of 1971, as amended, and Commission regulations by using the name "Cat Ping for Congress 2014" in its disclaimer, when the Committee's actual name was "Cat Ping for Congress." The Complainant also states that the Committee's website disclaimer was not included within a printed box, and that the solicitation page on the Committee's website lacked the requisite "best efforts" language. The Complainant observes that CDN ran a newspaper advertisement that expressly advocated for Ping's election, but failed to indicate whether Ping had authorized it. The Complainant suggests that if the advertisement cost more than \$250, and it was not approved by Ping, CDN should have filed an independent expenditure report with the Commission.

¹ In 2014, Ping was an unsuccessful candidate for Congress from Indiana's 7th Congressional District.

² We were unable to find contact information for CDN; therefore, we were unable to notify this Respondent.

1 The Committee maintains that the disclaimer on its website did not mislead the public.
2 It claims that it was not required to display the disclaimer within a printed box because that
3 requirement applies only to printed communications. *See* 11 C.F.R. § 110.11(c)(2)(ii).
4 Furthermore, the Committee notes that it was not required to display its disclaimer on every
5 page of its website. Regarding the "best efforts" allegation, the Committee claims that the
6 complainant failed to set forth any contribution for which the requisite identifying information
7 was not disclosed. Finally, the Committee denies that it had any prior knowledge of CDN's
8 advertisement and did not authorize it.³

9 The Committee's website appears to include sufficient information as to the identity of
10 the party who paid for it.⁴ Thus, it is unlikely that the public was misled by the slight variation
11 of the Committee's official name.

12 Based on its experience and expertise, the Commission has established an Enforcement
13 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
14 assess whether particular matters warrant further administrative enforcement proceedings.
15 These criteria include (1) the gravity of the alleged violation, taking into account both the type
16 of activity and the amount in violation; (2) the apparent impact the alleged violation may have
17 had on the electoral process; (3) the complexity of the legal issues raised in the matter; and
18 (4) recent trends in potential violations and other developments in the law. This matter is rated
19 as low priority for Commission action after application of these pre-established criteria. Given

³ According to the Committee, it contacted the *Franklin Township Informer*, in which the pro-Ping CDN advertisement appeared, and was quoted a price of \$60, which is well under the "over \$250" threshold required for filing an independent expenditure report.

⁴ The Commission has concluded that internet pages do not constitute "printed communications;" therefore, the additional disclaimer requirements for printed disclaimers, including the "printed box" requirement, do not apply to campaign websites. *See* Statement of Reasons, Comm'rs. Weintraub, Walther, Lenhard, Mason, Toner and von Spakovsky at 4, MUR 5526 (Graf for Congress); *see also* MUR 6591 (Friends of Tom Stilson).

1 that low rating and the other circumstances presented, including the apparent small amounts at
2 issue, we recommend that the Commission dismiss the allegations consistent with the
3 Commission's prosecutorial discretion to determine the proper ordering of its priorities and use
4 of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend
5 that the Commission close the file as to all respondents and send the appropriate letters.

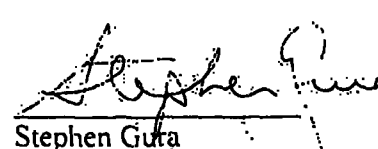
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7 Daniel A. Petalas
8 Acting General Counsel
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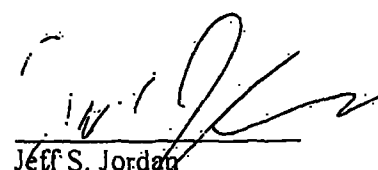
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11 Kathleen M. Guith
12 Acting Associate General Counsel
13 for Enforcement
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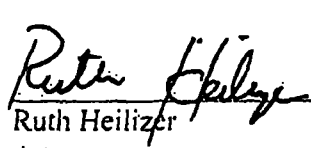
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18 Date

19 BY:

20 
21 Stephen Gufa
22 Deputy Associate General Counsel
23 Enforcement
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27 Jeff S. Jordan
28 Assistant General Counsel
29 Complaints Examination
30 & Legal Administration
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34 Ruth Heilizer
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